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3 **DECISION AND ORDER**
4 **OF THE**
5 **BOARD OF PSYCHOLOGY**

6
7 **DEPARTMENT OF CONSUMER AFFAIRS**

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9 The attached Stipulated Surrender of License in case number W286, is hereby adopted as
10 the Decision and Order of the Board of Psychology, Department of Consumer Affairs. An
11 effective date of September 19, 2005 has been assigned to this Decision and
12 Order.

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14 Made this 19th day of August, 2005.

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17 Jaqueline B. Horn, Ph.D.
18 Jacqueline B. Horn, Ph.D.
19 President, Board of Psychology
20 Department of Consumer Affairs
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Diane Wilson, Ph.D.

BILL LOCKYER, Attorney General
of the State of California
JOSE R. GUERRERO
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Attorneys for Complainant

**BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. W-286

DIANE WILSON, Ph.D.
6777 Wilton Drive
Oakland, CA 94611

**STIPULATED SURRENDER
OF LICENSE AND ORDER**

Psychology License No. PSY 15435

Respondent.

IT IS HEREBY STIPULATED AND AGREED by and between the parties in this proceeding that the following matters are true:

1. Thomas S. O'Connor (Complainant) was the Executive Officer of the Board of Psychology (the "Board") at the time the Accusation in this matter was filed; Jeffrey Thomas is the current Interim Executive Officer of the Board. This action was brought and maintained solely in the official capacity of the Board's Executive Officer, who is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Jane Zack Simon, Deputy Attorney General.

2. Diane Wilson, Ph.D. (Respondent) is represented in this matter by John L. Fleer, Law Offices of John L. Fleer, 91 Tara Road, Orinda, CA 94563.

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1 3. On or about October 16, 1997, the Board of Psychology issued Psychology
2 License Number PSY 15435 to Diane Wilson, Ph.D. (Respondent). Said license expired on May
3 31, 2005.

4 4. Accusation No. W286 was filed before the Board of Psychology,
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
6 and all other statutorily required documents were properly served on Respondent. Respondent
7 timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. W286 is
8 attached as exhibit A and incorporated herein by reference.

9 5. Respondent has carefully read, discussed with counsel, and understands
10 the charges and allegations in Accusation No. W286. Respondent also has carefully read,
11 discussed with counsel and understands the effects of this Stipulated Surrender of License and
12 Order.

13 6. Respondent is fully aware of her legal rights in this matter, including the
14 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
15 counsel, at her own expense; the right to confront and cross-examine the witnesses against her;
16 the right to present evidence and to testify on her own behalf; the right to the issuance of
17 subpoenas to compel the attendance of witnesses and the production of documents; the right to
18 reconsideration and court review of an adverse decision; and all other rights accorded by the
19 California Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
21 each and every right set forth above.

22 8. Respondent admits that if this matter proceeded to a hearing, complainant
23 could present evidence sufficient to impose discipline on her license. Respondent hereby gives
24 up her right to a hearing and agrees that her Psychology License is subject to discipline.

25 9. Respondent desires and agrees to surrender Psychology License No. PSY
26 15435 for the Board's formal acceptance, thereby giving up her right to practice psychology in
27 the State of California.

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1 10. The admissions made by respondent herein are only for the purposes of
2 this proceeding, or any other proceedings in which the Board of Psychology or other professional
3 licensing agency is involved, and shall not be admissible in any other criminal or civil
4 proceeding.

5 11. This stipulation shall be subject to approval by the Board of Psychology.
6 Respondent understands and agrees that counsel for Complainant and staff of the Board of
7 Psychology may communicate directly with the Board regarding this stipulation and settlement,
8 without notice to or participation by Respondent or her counsel. By signing the stipulation,
9 Respondent understands and agrees that she may not withdraw her agreement or seek to rescind
10 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
11 this stipulation as its Decision and Order, the Stipulated Surrender of License and Order shall be
12 of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
13 between the parties, and the Board shall not be disqualified from further action by having
14 considered this matter.

15 12. The parties understand and agree that facsimile copies of this Stipulated
16 Surrender of License and Order, including facsimile signatures thereto, shall have the same force
17 and effect as the originals.

18 13. Respondent understands and agrees that by signing this stipulation she is
19 enabling the Board of Psychology to issue its order accepting the surrender of license without
20 further process.

21 14. Respondent shall lose all rights and privileges as a psychologist in
22 California as of the effective date of the Board's Decision and Order.

23 15. Respondent shall cause to be delivered to the Board both her wall and
24 wallet certificate, should she still possess them, on or before the effective date of the Decision
25 and Order.

26 16. Respondent fully understands and agrees that if she ever files an
27 application for licensure or a petition for reinstatement in the State of California, the Board shall
28 treat it as a petition for reinstatement. Respondent shall not be eligible to file such a petition for

1 APPROVAL

2 I have fully read and discussed with Respondent Diane Wilson, Ph.D. the
3 provisions of this Stipulated Surrender of License and Order. I approve its form and content.
4

5 DATED: July 11, 2005.

6 
7 JOHN L. FLEER

8 Law Offices of John L. Fleer

9 Attorneys for Respondent

10 ENDORSEMENT

11 The foregoing Stipulated Surrender of License and Order is hereby respectfully
12 submitted for consideration by the Board of Psychology of the Department of Consumer Affairs.
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14 DATED: July 14, 2005.

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16 BILL LOCKYER, Attorney General
17 of the State of California

18 
19 JANE ZACK SIMON

20 Deputy Attorney General

21 Attorneys for Complainant
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Exhibit A

BILL LOCKYER, Attorney General
of the State of California
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Attorneys for Complainant

BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:)	Case No.W286
)	
DIANE WILSON, Ph.D.)	A C C U S A T I O N
6777 Wilton Drive)	
Oakland, CA 94611)	
)	
)	
License No. PSY 15435)	
)	
Respondent.)	

THOMAS S. O'CONNOR, complainant herein, charges and alleges as follows:

1. He is the Executive Officer of the Board of Psychology, State of California (hereinafter referred to as the "Board"), and makes these charges and allegations solely in his official capacity.

LICENSE HISTORY

2. On or about October 16, 1997, respondent Diane Wilson, Ph.D. (hereinafter referred to as "respondent"), was issued License No. PSY 15435 by the Board of Psychology, authorizing her to practice psychology in the State of California. The license is renewed to May 31, 2005.

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STATUTES AND REGULATIONS

3. Section 2960 of the Business and Professions Code^{1/} states, in pertinent part, that the Board may suspend, revoke or impose probationary conditions on a licensee for unprofessional conduct, which is defined to include, but not be limited to, any of the following causes:

(h) Willful, unauthorized communication of information received in professional confidence;

(i) Violating any rule of professional conduct promulgated by the Board and set forth in regulations duly adopted under this chapter;

(j) Being grossly negligent in the practice of his or her profession.

(k) Violating any of the provisions of this chapter or regulations duly adopted thereunder;

(o) Any act of sexual abuse, or sexual relations with a patient or former patient within two years following termination of therapy, or sexual misconduct that is substantially related to the qualifications, functions or duties of a psychologist.

(r) Repeated acts of negligence.

4. Section 726 of the Code provides that the commission of any act of sexual abuse, misconduct, or relations with a patient, client or customer constitutes unprofessional conduct and grounds for disciplinary action.

5. Section 2936 of the Code provides that the Board shall establish as its standards of ethical conduct relating to the practice of psychology, the code of ethics adopted and published by the American Psychological Association (the APA.) Those standards shall be applied by the Board as the accepted standard of care in all Board enforcement policies and

1. All statutory references are to the Business and Professions Code unless otherwise indicated.

1 disciplinary case evaluations.

2 a. Ethical Standard 1.13 of the Ethical Principles of Psychologists and
3 Code of Conduct of the APA^{2/} provides that psychologists recognize that their personal problems
4 and conflicts may interfere with their effectiveness. Accordingly, they refrain from undertaking
5 an activity when they know or should know that their personal problems are likely to lead to
6 harm to the patient, client, colleague. When psychologists become aware of personal problems
7 that may interfere with their performing work-related duties adequately, they take appropriate
8 measures and determine whether they should limit, suspend, or terminate their work-related
9 duties.

10 b. Ethical Standard 1.14 provides that psychologists must take
11 reasonable steps to avoid harming their patients or clients and to minimize harm where it is
12 foreseeable and unavoidable.

13 c. Ethical Standard 1.23 requires psychologists to appropriately
14 document their professional work in order to facilitate provision of services later by them or
15 other professionals, to ensure accountability, and to meet other requirements of institutions or the
16 law.

17 d. Ethical Standard 1.17 provides that a psychologist should refrain
18 from entering into or promising another personal, financial or other relationship with patients if it
19 appears likely that such a relationship reasonable might impair the psychologist's objectivity or
20 otherwise interfere with the psychologist effectively performing his or her function as a
21 psychologist, or might harm or exploit the patient.

22 e. Ethical Standard 1.18 provides that psychologists should refrain
23 from accepting goods, services, or other non-monetary remuneration for patients in return for
24 psychological services because such arrangements created inherent potential for conflicts,
25 exploitation and distortion of the professional relationship.

26
27 2. The 1992 APA Ethics Code was in effect during the period alleged this
Accusation.

1 f. Ethical Standard 1.19 provides that psychologists do not exploit
2 patients.

3 g. Ethical Standard 4.05 provides that psychologists do not engage in
4 sexual intimacies with current patients or clients.

5 h. Ethical Standard 4.07 provides that psychologists do not engage
6 in sexual intimacies with a former therapy patient or client for at least two years after cessation or
7 termination of professional services, and that psychologists do not engage in sexual intimacies
8 with former therapy patients even after a two-year interval except in the most unusual
9 circumstances.

10 i. Ethical Standard 4.09 provides that psychologists do not abandon
11 patients, and prior to termination of therapy, the psychologist must discuss the patient's views
12 and needs, provide appropriate pre-termination counseling, and take other reasonable steps to
13 facilitate transfer of responsibility to another provider if needed.

14 j. Ethical Standard 5.02 provides that psychologists have a primary
15 obligation to take reasonable precautions to respect the confidential rights of their patients.

16 k. Ethical Standard 5.03(b) provides that psychologists may discuss
17 confidential information obtained in their work only for appropriate scientific or professional
18 purposes and only with persons clearly concerned with such matters.

19 6. Section 125.3 of the Code provides, in pertinent part, that in any
20 order issued in resolution of a disciplinary proceeding before any board within the Department of
21 Consumer Affairs, the board may request the administrative law judge to direct a licensee found
22 to have committed any violation of the licensing act to pay a sum not to exceed the reasonable
23 costs of the investigation and enforcement of the case.

24 7. Section 2964.6 of the Code provides that, "[a]n administrative
25 disciplinary decision that imposes terms of probation may include, among other things, a
26 requirement that the licensee who is being placed on probation pay the monetary costs associated
27 with monitoring the probation."

1 8. Section 2960.1 of the Code provides that any proposed decision or
2 decision that contains any finding of fact that the licensee or registrant engaged in any act of
3 sexual contact, as defined in Section 728, when that act is with a patient, or with a former patient
4 within two years following termination of therapy, shall contain an order of revocation. The
5 revocation shall not be stayed by the administrative law judge.

6 FACTUAL ALLEGATIONS

7 9. In or about February 1999, Patient E.M. was referred to respondent by
8 friends. E.M. had been experiencing anxiety, and wished to obtain therapy. One of the issues
9 E.M. was dealing with was her ambivalence regarding her own long-term relationship with her
10 partner. Respondent began to see E.M. on a regular basis, generally two times each week, for
11 therapy. Respondent was at that time practicing out of an office in Oakland, California.

12 10. Over the course of therapy, respondent began to share details of her own
13 life with E.M. During sessions, ^{respondent} spoke about her own personal relationships, her child, her
14 finances and aspects of respondent's personal life. Respondent discussed the details of her break-
15 up with her long-term partner, and shared with E.M. her sadness and depression over the
16 deterioration of the relationship. Respondent discussed details of her sex life. E.M. began to feel
17 extremely close to respondent, and formed a strong attachment to her. E.M. began to do and say
18 things to get respondent's attention. For example, E.M. began to bring ingredients for martinis to
19 therapy sessions, and thereafter E.M. and respondent began to drink martinis during therapy
20 sessions. As time went on, respondent continued to discuss personal matters with E.M.
21 Respondent introduced E.M. to her mother, and shared details regarding respondent's family
22 dynamic. E.M. paid for therapy sessions, which often stretched well beyond the standard one
23 hour session. Respondent advised E.M. that sharing information about her own private life was
24 the greatest indication of how she felt about E.M.

25 11. After respondent ended her relationship with her long-time partner, she
26 relocated her practice to her home in Berkeley. Respondent formed a relationship with a new
27 partner. At times, the new partner would walk into therapy sessions and interrupt the session.

1 Respondent began to tell E.M. things about other patients she saw, and on occasion, played a
2 voice mail message from an upset patient while E.M. was present. Respondent suggested that
3 E.M. should consider dating another patient of respondent's, and asked E.M. for permission to
4 give that patient E.M.'s phone number.

5 12. E.M. found herself increasingly attracted to and obsessed with respondent.
6 After respondent relocated her practice to her home, E.M.'s therapy sessions consisted primarily
7 of "therapy walks" in which respondent and E.M. would walk E.M.'s dogs in the nearby park.
8 They flirted, hugged and held hands during these walks, and by the fall of 2001, respondent and
9 E.M. were ending sessions by kissing one another on the lips.

10 13. In December 2001, respondent told E.M. that she needed to do
11 Christmas shopping, and the two of them met at Costco. At the time of checkout, Costco would
12 not accept the charge on respondent's credit card, and respondent permitted E.M. to use her
13 employer's credit card to pay for respondent's purchase. E.M. and respondent thereafter agreed
14 to a "barter" arrangement under which the money be used as a prepayment for future therapy
15 sessions. From that point on, E.M. on multiple occasions used her employer's credit card and her
16 own money to make purchases for respondent. Respondent was aware of this situation. The two
17 frequently met for shopping or coffee.

18 14. In January 2002, one of respondent's patients gave her a stock tip, which
19 respondent passed on to E.M. E.M. then set up a joint on-line stock account in her name and
20 respondent's name. The statements went to E.M.'s house because respondent did not want her
21 partner to know about the arrangement. E.M. put up the money for both herself and respondent,
22 and the investment was made. By this time, E.M. was assisting respondent in many of her
23 financial transactions, and respondent had provided E.M. with personal information such as her
24 social security number, mother's maiden name, bank and credit card accounts, passwords, etc.
25 E.M. was paying bills for respondent, accessing respondent's bank accounts, and contacting
26 companies to whom respondent owed money. Respondent had turned her checkbook over to
27 E.M. E.M. helped respondent make funeral arrangements when respondent's sister died, and

1 E.M. attended the funeral. Respondent requested E.M.'s assistance in gaining admission to a
2 private school for respondent's child.

3 15. On February 19, 2002, after three years of therapy, respondent abruptly
4 told E.M. that the therapeutic relationship was ended, and they were going to be friends. There
5 was no termination process or referral to another therapist. E.M. continued to see respondent
6 regularly, visiting in person at E.M.'s home and on walks and in telephone conversations. E.M.
7 continued to make purchases for respondent using both her own money and her employer's credit
8 card, and to take care of respondent's credit and financial problems.

9 16. Following the "termination" of therapy, E.M. and respondent met
10 frequently and respondent visited E.M. at her home. They kissed and touched. Respondent had
11 a key to E.M.'s home. On or about March 22, 2002, E.M. and respondent engaged in sexual
12 intercourse at E.M.'s home. Respondent told E.M. on several occasions that the relationship
13 could jeopardize her psychology license.

14 17. Over the next several months, E.M. continued to be entangled in
15 respondent's financial and personal issues. By August 2002, respondent was heavily in debt. At
16 E.M.'s suggestion, respondent transferred nearly \$20,000 in credit card debt to E.M., with the
17 understanding that respondent would repay E.M. at the rate of \$1,000 per month. E.M. continued
18 to make purchases for respondent, often using her employer's credit card. E.M. continued to
19 spend hours, much of the time during her own work day, attempting to assist respondent with her
20 credit difficulties.

21 18. In January, 2003, E.M.'s employer discovered her embezzlement (after
22 E.M. used her employer's credit card to make a substantial down payment on a new car for
23 respondent) and she was fired from her job. E.M. was criminally charged and convicted as a
24 result of her embezzlement. E.M. was forced to sell her home to repay her debts.

25 19. After E.M.'s embezzlement was discovered, she notified respondent, who
26 ceased all contact with E.M. Respondent's concern was that her name not be involved in the
27 scandal. Over the next several months, respondent's repayment of her debt to E.M. became

erratic and unreliable, causing E.M. additional difficulty and stress. The debt was ultimately paid in full after E.M. formally demanded repayment.

20. Respondent did not keep records of her treatment of E.M. Respondent told E.M. that she did not maintain records, because she did not want to have to produce them for court proceedings. When asked by the Board to produce her treatment records for E.M., respondent's attorney responded with a letter stating that she had not maintained extensive treatment records for E.M., and that she believed that the records she did maintain had been "lost to flood damage."

FIRST CAUSES FOR DISCIPLINE

(Unprofessional Conduct/Sexual Misconduct)

21. The allegations of paragraphs 10 through 20 are incorporated herein by reference.

22. Respondent's conduct in engaging in sexual activity with her patient or former patient as alleged constitutes unprofessional conduct pursuant to Business and Professions Code section 2960; and/or gross negligence under section 2960(j); and/or acts of sexual abuse, or sexual relations with a patient or former patient pursuant to section 2960(o); and/or sexual abuse, misconduct or relations with a patient pursuant to section 726; and/or a violation of rules of professional conduct and ethical standards (Ethical Standards 4.05, 4.07) pursuant to sections 2960(i) and/or 2936, and is therefore cause for discipline.

SECOND CAUSES FOR DISCIPLINE

(Unauthorized Communication of Confidential Information)

23. The allegations of paragraphs 10-20 above are incorporated herein by reference.

24. Respondent's conduct in sharing confidential and private information about other patients, in permitting her partner to intrude upon therapy sessions, in suggesting that E.M. date another of respondent's patients, and in playing voice messages from other patients constitutes unprofessional conduct pursuant to Business and Professions Code section 2960; a

1 willful, unauthorized communication of confidential information pursuant to section 2960(h);
2 and/or gross negligence pursuant to section 2960(j); and/or negligence pursuant to section
3 2960(r); and/or a violation of rules of professional conduct and ethical standards (Ethical
4 Standards 5.02, 5.03) pursuant to sections 2960(i) and/or 2936, and is therefore cause for
5 discipline.

6 **THIRD CAUSES FOR DISCIPLINE**

7 (Multiple Relationships/Exploitation)

8 25. The allegations of paragraphs 10-20 above are incorporated herein by
9 reference.

10 26. Respondent's conduct in permitting the relationship between herself and
11 E.M. to become a personal friendship, in discussing respondent's own personal issues with her
12 patient, in engaging in shopping and dining events with her patient, in permitting E.M. to take
13 on respondent's financial obligations, in "bartering" for payment of therapy fees, in accepting
14 money and gifts from E.M., in permitting E.M. to embezzle money from her employer for
15 respondent's benefit, in permitting E.M. to become involved in details of respondent's life, and
16 in providing E.M. with extensive personal information about respondent, constitutes
17 unprofessional conduct pursuant to Business and Professions Code section 2960; and/or gross
18 negligence pursuant to section 2960(j); and/or negligence pursuant to section 2960(r); and/or a
19 violation of rules of professional conduct and ethical standards (Ethical Standards 1.13, 1.17,
20 1.18, 1.19) pursuant to sections 2960(i) and/or 2936 and is therefore cause for discipline.

21 **FOURTH CAUSES FOR DISCIPLINE**

22 (Personal Problems and Conflicts)

23 27. The allegations of paragraphs 10-20 above are incorporated herein by
24 reference.

25 28. Respondent's conduct in permitting her patient to become intimately
26 involved in her personal and financial difficulties, when it was foreseeable that such involvement
27 would exploit E.M. and lead to harm to E.M., constitutes unprofessional conduct pursuant to

1 Business and Professions Code section 2960; and/or gross negligence pursuant to section
2 2960(j); and/or negligence pursuant to section 2960(r); and/or a violation of rules of professional
3 conduct and ethical standards (Ethical Standards 1.13, 1.14, 1.17, 1.18, 1.19) pursuant to sections
4 2960(i) and/or 2936 and is therefore cause for discipline..

5 **FIFTH CAUSES FOR DISCIPLINE**

6 (Improper Termination)

7 29. The allegations of paragraphs 10-20 above are incorporated herein by
8 reference.

9 30. Respondent's conduct in purporting to terminate the therapeutic
10 relationship with E.M. without prior discussion or planning, and without referring E.M. to
11 another therapist, constitute unprofessional conduct pursuant to Business and Professions Code
12 section 2960; and/or gross negligence pursuant to section 2960(j); and/or negligence pursuant to
13 section 2960(r); and /or a violation of rules of professional conduct and ethical standards (Ethical
14 Standard 4.09) pursuant to sections 2960(i) and/or 2936, and it therefore cause for discipline.

15 **SIXTH CAUSES FOR DISCIPLINE**

16 (Failure to Create or Maintain Records)

17 31. The allegations of paragraphs 10 through 21 are incorporated herein by
18 reference.

19 32. Respondent's conduct in failing to create and maintain a written record of
20 her treatment of patient E.M. as alleged constitutes unprofessional conduct pursuant to Business
21 and Professions Code section 2960; and/or gross negligence pursuant to section 2960(j); and/or
22 negligence pursuant to section 2960(r); and /or a violation of rules of professional conduct and
23 ethical standards (Ethical Standard 1.23) pursuant to sections 2960(i) and/or 2936, and it
24 therefore cause for discipline.

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1 PRAYER

2 WHEREFORE, the complainant requests that the Psychology Board hold a hearing
3 on the matters alleged herein and that following said hearing, issue an order:

4 1. Suspending or revoking Psychology License No. PSY 15435 heretofore
5 issued to Diane Wilson, Ph.D.;

6 2. Ordering respondent to pay the Board the actual and reasonable costs of
7 the investigation and enforcement of this case; and, if respondent is placed on probation, the
8 costs of probation monitoring; and,

9 3. Taking such other and further action as the Board deems necessary and
10 proper.

11 DATED: April 13, 2005

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13 THOMAS S. O'CONNOR
14 Executive Officer
15 Board of Psychology

16 Complainant
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